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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,892	06/11/2001	Taro Ogawa	TAK.P.US0029	2745
7590 05/05/2004			EXAMINER	
Phillip L Kenner Renner Kenner Greive Bobak Taylor & Weber First National Tower Fourth Floor Akron, OH 44308-1456			YAO, SAMCHUAN CUA	
			ART UNIT	PAPER NUMBER
			1733	
DATE MAILED: 05/05/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/857,892

Applicant(s)

OGAWA ET AL.

Examiner

Sam Chuan C. Yao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 3-8 and 11-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-8 and 11-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 6-7, 14-15 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As far as the Examiner can tell, no express support can be found for the newly added limitations "*means for removably connecting ...*" & "*said connecting means is removable from said entry and said supply port*" per claims 6-7 and 14, respectively without any guidelines/guidance from Counsel/Applicant as to where support might be found, this engenders a New Matter situation.

3. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 is indefinite, because it is unclear whether this claim positively requires a steam supply or merely requires an air-hole. For the purpose of examining this claim, it is assumed that, a steam supply is required in this claim.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 11-12 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Yamaguchi (US 6,033,501) using WO 97/02377 publication date 01-23-97 and optionally as evidence from the teachings of Yamaguchi (US 6,096,249) using WO 98/24958 publication date 06-11-98.

Yamaguchi '249 discloses a molding device for making an auto/airplane seat cushion, the device comprises:

a molding block (7) being movable between a closing and opening positions, the molding block has three independent movable members (7a-7c); a supply inlet port for supplying a loose fibrous aggregate; a molding cavity (C); a suction port disposed between the cavity and a suction device (10) (figure 2a-2b; figures 7-8).

As for a limitation of a *"suction port being closed by said block when said block is at said closing position"*, it is worthnoting that, this limitation does not require completely closing a suction port. Therefore, as illustrated in figure 8, a suction port to an exhaust chamber (12)/inner space is at least partially closed. In any event, even if this limitation requires a suction port being completely closed by a block, this limitation still fails to distinguish over Yamaguchi '249, because an upper molding member (7c) and lower molding member are capable of

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completely closing a suction port. All that would be needed would have been to continue running activators 8d and/or 8a until a pair of side-end projecting portions of upper molding member (7c) and lower molding member engages. Yamaguchi '958 is optionally cited as further evidence that, a pair of side-end projecting portions of upper molding member (7c) and lower molding member engages (2B).

As for a limitation regarding a porous skin layer having a bag shape, a lower molding member of a molding device illustrated 2b is capable of handling such a skin layer. Note: *"Inclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims."* In re Young, 25 USPQ 69 (CCPA 1935) (as restated in In re Otto, 136 USPQ 458, 459 (CCPA 1963). With respect to claim 12, a molding device taught by Yamaguchi is taken to be capable of performing the process limitation recited in this claim especially in combination with a blower (4). All that would be required would have been to increase the suction pressure of a suction device.

6. Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi (US 6,033,501) using WO 97/02377 publication date 01-23-97 in view of Gill (US 5,482,665) or JP 0825059 A.

**This alternative rejection is made in the event that, a molding device is taken to be incapable of handling a porous skin layer having a bag shape.**

The discussion of the Yamaguchi '501 patent is set forth in numbered paragraph 5 above.

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With respect to claims 11-12, it would have been obvious in the art to modify a lower molding member taught by Yamaguchi '249 with a lower molding member similar to the one taught by either Gill or JP '059 as such is taken to be well within the purview of choice in the art. A configuration for a lower molding member clearly depends on the desired shape/structure of a resultant seat cushion.

With respect to claim 13, it is a common practice in the art to interchangeably use a steam or a heated air to activate binder fibers in a fibrous web. For

With respect to claims 14-15, exhaust chamber (12), upper and lower molding members (6,7), transfer duct (3) are taken to be an inner space; pre-molding container; and, connecting means, respectively. It would have been obvious in the art to provide a telescoping injector to a transfer duct taught by Yamaguchi '501, because Gill teaches providing a telescoping injector to a filling tube in order to evenly distribute fibers to a cavity of a molding device (col. 6 lines 1-20; figure 3). A telescoping injector is taken to be removable from a filling tube and an entry port, because it is a distinct and independent component from the filling tube and the entry port as evidence from figure 3.

7. Claims 3-4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takashi et al (JP 08-258,059) in view of Hughes (US 5,132,063) and further in view of Kataoka et al (US 6,033,607).

The discussion of JP '059 and Hughes is set forth in the prior office action dated 10-07-03.

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At the outset, the method claims as presently recited do not require solely creating an airflow using the recited pumping source, nor does the claims require supplying a predetermined amount of a filling material is made solely by the created airflow.

It is unclear in a disclosure of Takashi et al how a fragmental filler is supplied into a cavity of a molding device. However, it would have been obvious in the art to provide a supply port in a molding process taught by Takashi et al as such is conventional in the art as exemplified in the teachings of Kataoka et al (figures 2A-2B). Moreover, it would have been obvious in the art to provide exhausters (9,11) as suggested by Kataoka et al to a process taught by Takashi et al so that *"the flow rate and/or pressure ... of the transportation air stream"* can be controlled to a predetermined condition (col. 7 lines 1-67; figure 2B). As clearly illustrated in figure 2B, airflow is created by suction pumps (9,11) and blower (4). Moreover, in view of the similarity of the production processes, air-flow produced by suction devices must intrinsically (to a certain degree) **facilitate** in supplying a predetermined amount of filler.

With respect to claim 8, as noted in a prior office action, Takashi et al suggest a form chip (5) can be waste material such as polyurethane foam.

8. Claims 5,11-13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references set forth in numbered paragraph 6 as applied to claim 3 above, and further in view of Yamaguchi et al (US 6,096,249).

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With respect to claims 5, 11-13, as for an additional limitation of suction port being closed by a slide block as it moves to a closing position, as such is conventional in the art as exemplified in the teachings of Yamaguchi (figure 2B).

With respect to claim 16, as noted in a prior office action, Takashi et al suggest a form chip (5) can be waste material such as polyurethane foam.

9. Claims 6-7, 14-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references set forth in numbered paragraph 6 as applied to claim 3 above, and further in view of Gill (US 5,482,665).

With respect to claims 6-7 and 14-15, it would have been obvious in the art to provide a telescoping injector to a transfer duct taught by Yamaguchi '501, because Gill teaches providing a telescoping injector to a filling tube in order to evenly distribute fibers to a cavity of a molding device (col. 6 lines 1-20; figure 3). A telescoping injector is taken to be removable from a filling tube and an entry port, because it is a distinct and independent component from the filling tube and the entry port as evidence from figure 3.

With respect to claim 17, as noted in a prior office action, Takashi et al suggest a form chip (5) can be waste material such as polyurethane foam.

### ***Response to Arguments***

10. Applicant's arguments with respect to the recited independent claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Chuan C. Yao whose telephone number is (571)




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272-1224. The examiner can normally be reached on Monday-Friday with second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sam Chuan C. Yao  
Primary Examiner  
Art Unit 1733

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05-03-04